

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

In re:)	Chapter 12
)	Case No. 20-11420-MSH
JEAN A. DEGUTIS)	
)	
Debtor)	
)	

MEMORANDUM OF DECISION ON TRUSTEE'S MOTION TO DISMISS

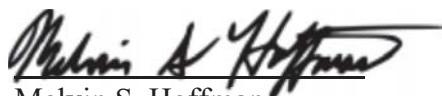
Carolyn A. Bankowski, the chapter 12 trustee in this case, has moved to dismiss this case on the basis that the debtor, Ms. DeGutis, does not qualify as a family farmer eligible to be a debtor under chapter 12 of the Bankruptcy Code (ECF No. 19). Based on the undisputed facts set forth in Ms. DeGutis's affidavit (ECF No. 36), filed in opposition to the motion to dismiss, I find that on June 29, 2020, the date this case was commenced, which is the relevant date for purposes of determining chapter 12 eligibility under 11 U.S.C., Ms. DeGutis owned one horse, engaged in the boarding of horses belonging to others, and offered riding lessons and riding services to the public. I conclude that these activities do not constitute a farming operation for purposes of chapter 12 eligibility. *See In re Poe*, Case No. 08-906, 2009 Bankr. LEXIS 2068, at *15-16 (Bankr. N.D. W. Va. July 29, 2009); *In re Malden Brook Farms, LLC*, 475 B.R. 299, 301-02 (Bankr. D. Mass. 2012). The fact that Ms. DeGutis has bred horses and dogs in the past and has “reserved” a dog and intends to begin breeding dogs again (the breeding of animals including dogs has been found by courts to constitute a farming operation) does not change the result. The sole point of reference for determining chapter 12 eligibility based on the definition of a family farmer in Bankruptcy Code § 101(18) is the case commencement date. *See Poe*, 2009 Bankr. LEXIS 2068, at *6 (“To qualify as a “family farmer” under the Bankruptcy Code, the Debtors’ operations must be examined ‘on the date the case is filed.’”). Neither a post-petition change in

business operation nor a previously abandoned one can save a debtor who didn't qualify as a family farmer on the petition date.

The trustee's motion to dismiss will be granted unless prior to December 31, 2020, Ms. DeGutis moves to convert her case to a case under another chapter of the Code in which she qualifies.

Dated: December 23, 2020

By the Court,



Melvin S. Hoffman
U.S. Bankruptcy Judge